



Community Development Department

BISMARCK BOARD OF ADJUSTMENT MEETING AGENDA

September 7, 2017

Tom Baker Meeting Room

5:00 p.m.

City-County Office Building

MINUTES

1. Consider the minutes of the August 3, 2017 meeting of the Board of Adjustment.

REQUESTS / PUBLIC HEARING

2. **Variance from Section 14-04-16 of the City Code of Ordinances (P – Public / Front Yard)** – Lots 2-3, Block 1, High School Addition (1000 East Century Avenue) | VAR2017-016

Owner / Applicant: *Bismarck Public Schools*

Board Action: ☐approve ☐continue ☐table ☐deny

3. **Variance from Section 14-04-06(7) of the City Code of Ordinances (R10 – Residential / Front Yard)** – Lot 1, Block 4, Edgewood Village First Addition (3559 Augusta Place) | VAR2017-017

Owner / Applicant: *Philip and Carolyn Ehli*

Board Action: ☐approve ☐continue ☐table ☐deny

4. **Variance from Section 14-04-01(6) of the City Code of Ordinances (RR – Residential / Rear Yard)** – Lot 2, Block 1, Enchanted Woods Subdivision (6565 Evergreen Avenue) | VAR2017-019

Owner / Applicant: *Bradley and Kara Erickson*

Board Action: ☐approve ☐continue ☐table ☐deny





Community Development Department

5. **Variance from Section 14-03-10 of the City Code of Ordinances (Off-street Parking and Loading)** – Lots 1-7 and Lots 21-24 and all of the vacated alley adjacent to the east-west and north-south alleys of the East ½ of said block, Block 33, William's Survey (1019 East Front Avenue) | VAR2017-018

Owner / Applicant: Rodney Boll

Board Action: ☐approve ☐continue ☐table ☐deny

OTHER BUSINESS

6. **Review of Public Hearing Procedures**

ADJOURNMENT

7. **Adjournment.** The next regular meeting date is scheduled for October 5, 2017.



BISMARCK BOARD OF ADJUSTMENT
MEETING MINUTES
August 3, 2017

The Bismarck Board of Adjustment met on August 3, 2017, at 5:00 p.m. in the Tom Baker Meeting Room in the City-County Office Building, 221 North 5th Street. Chairman Marback presided.

Members present were Jennifer Clark, Chris Seifert, Ken Hoff, Curtis Janssen, Michael Marback and Rick Wohl.

Staff members present were Jenny Wollmuth – Planner, Brady Blaskowski – Building Official, Melanie LaCour – Assistant City Attorney and Hilary Balzum – Community Development Administrative Assistant.

MINUTES:

Chairman Marback called for approval of the minutes of the July 6, 2017 meeting of the Board of Adjustment.

MOTION: A motion was made by Mr. Hoff and seconded by Mr. Janssen to approve the minutes of the June 6, 2017 meeting, as presented. With Board Members Clark, Hoff, Janssen, Marback, Seifert and Wohl voting in favor, the minutes were approved.

VARIANCE FROM SECTION 14-04-05(3)(F)(1)(RMH-RESIDENTIAL/DEVELOPMENT STANDARDS/SETBACKS) – LOT 55 IN STARDUST TERRACE, A PORTION OF LOTS 1 AND 2, LESS STREET RIGHT-OF-WAY, BLOCK 1, STARDUST TERRACE (725 SOUTH 12TH STREET, LOT 55)

Chairman Marback stated the applicant, VCZ, Inc., is requesting a variance to reduce the required minimum distance between mobile homes from twelve (12) feet to ten feet six inches (10' 6") for the purpose of placing a manufactured home on Lot 55 in Stardust Terrace.

Ms. Wollmuth gave an overview of the request, including the following findings:

1. The need for a variance is not based on special circumstances or conditions unique to the specific parcel of land involved that are not generally applicable to other properties in this area and within the RMH-Residential zoning classifications.
2. The hardship is not caused by the provisions of the Zoning Ordinance.

3. Strict application of the provisions of the Zoning Ordinance would not deprive the property owner of the reasonable use of the property.
4. The requested variance is not the minimum variance that would accomplish the relief sought by the applicant.
5. The granting of the variance is not in harmony with the general purposes and intent of the Zoning Ordinance.

Ms. Wollmuth said staff recommends reviewing the findings in the staff report and modifying them as necessary to support the decision of the Board.

Chairman Marback asked if the mobile home lot lines could be interpreted as imaginary lot lines. Ms. Wollmuth said that it is correct as it is a mobile home park and the entire park is all one parcel.

Chairman Marback opened the public hearing.

Amy Rohrich, VCZ, Inc., said it can be seen on the site plan that the streets around the referenced property are all internal streets. She said the newly placed mobile home has been moved back and forth, measured and staked several times. She said they got it to fit as best as they possibly could which is closer than allowed to the adjacent mobile home. She said that particular mobile home could potentially not be there much longer, however, the distance between the two is 10 ½ feet away from the adjacent one. She said there is a gas line and a utility box impeding moving the new mobile home further away from the adjacent one and in the event the adjacent mobile is removed, they would opt to move a smaller one in so the distance requirement is then met.

Ms. Clark asked if they thought it would fit when it originally was brought in. Ms. Rohrich said they did think it would fit and they measured twelve feet away from the adjacent home, but that put it too close to the right-of-way and it would impede on snow removal operations, so they moved it back. She said this is the only home they would need a variance for as this has never happened before and to reconfigure the entire mobile home park to accommodate this one home would be very complicated.

Ms. Clark asked if the variance is granted and the adjacent mobile home is removed in the future, would a newly placed home be grandfathered in at this new minimum distance of 10 ½ feet.

Mr. Blaskowski said that can be made specific in the motion if needed, but a review of the distance from the new trailer to the existing ones would be done before they are put in place.

Chairman Marback asked if the adjacent home is removed, could a replacement home be placed further away from this one.

Mr. Janssen asked if that would create fire code issues with a shorter distance to the next home. Mr. Blaskowski said it would not as the requirements in place by the State are a 12-foot separation for stick built homes and 10 feet for mobile homes, however, the City standard that is in place requires mobile homes to be 12 feet away from each other.

There being no further comments, Chairman Marback closed the public hearing.

MOTION: A motion was made by Ms. Clark to approve the variance to reduce the required minimum distance between mobile homes from twelve (12) feet to ten feet six inches (10' 6") for the purpose of placing a manufactured home on Lot 55 in Stardust Terrace on a portion of Lots 1 and 2, less street right-of-way, Block 1, Stardust Terrace Addition (725 South 12th Street, Lot 55), based on the property being used as it was designed to be and everything having been done to make the home fit and the variance being the minimum needed to accommodate the new mobile home. The motion was seconded by Mr. Hoff and with Board Members Clark, Hoff, Janssen, Marback, Seifert and Wohl voting in favor of the motion, the motion was approved and the variance was granted.

OTHER BUSINESS

Mr. Hoff asked if the owner that requested an appeal of a notice and order last month has brought their property into compliance yet. Ms. Wollmuth said it is her understanding that the Environmental Health Officer, City staff and the owner are all actively working to get the issues that were discussed remedied.

ADJOURNMENT

There being no further business, Chairman Marback declared the meeting of the Bismarck Board of Adjustment adjourned at 5:12 p.m. to meet again on September 7, 2017.

Respectfully Submitted,

Hilary Balzum
Recording Secretary

APPROVED:

Michael Marback, Chairman



STAFF REPORT

City of Bismarck
Community Development Department
Planning Division

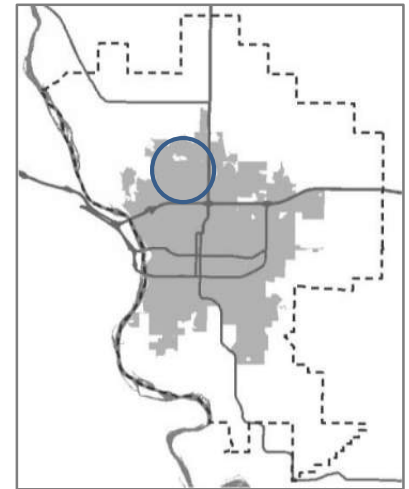
Agenda Item 2
September 7, 2017

Application for: Variance

TRAKiT Project ID: VAR2017-016

Project Summary

Title:	Lots 2-3, Block 1, High School Addition (1000 E Century Avenue)
Status:	Board of Adjustment
Owner(s):	Bismarck Public School District
Project Contact:	Darin Scherr, PE, Bismarck Public Schools
Location:	In north Bismarck, between North 4 th Street and North 11 th Street, along the north side of East Century Avenue.
Request:	Variance from Section 14-04-16 of the City Code of Ordinances (P – Public / Front Yard).



Staff Analysis

The applicant is requesting a variance to reduce the required front yard setback for a property located within the P – Public zoning district from twenty-five (25) feet to twenty-two and one half (22.5) feet for the purpose of constructing an addition along the east side of Century High School.

High School Addition was platted and zoned P – Public in 1978. The building permit for the original portion of the high school was issued in 1973. The permit indicated that the proposed front yard setback was approximately 194 feet from the front property line adjacent to East Century Avenue. A certificate of occupancy was issued in 1978. The original building permit and certificate of occupancy are attached.

A two-story addition to the south side of the original building was constructed in 1997. The building permit for the addition did not specify a required front yard setback for the addition. It appears that the addition was constructed twenty-three and one half (23.5) feet from the front property line. It does not appear that a variance was issued to reduce the front yard setback in 1997. In addition, the inspection notes for the addition do not indicate that a footing / foundation inspection was completed. This inspection would have verified that the addition was in compliance with the required

front yard setback. A copy of the building permit and inspection notes are also attached.

If approved, the proposed addition would be six (6) inches closer to the front property line than the 1997 addition.

Applicable Provision(s) of Zoning Ordinance

Section 14-02-03 of the City Code of Ordinances (Definitions) defines a variance as, “A device which grants a property owner relief from certain provisions of the zoning ordinance when, because of the particular physical surroundings, shape or topographical condition of the property, compliance would result in a particular hardship upon the owner, as distinguished from a mere inconvenience or desire to increase the financial return.”

Section 14-04-16 of the City Code of Ordinances (P – Public / Front Yard) states, “Each lot shall have a front yard of not less than twenty-five (25) feet.” According to the site plan submitted with the application, the proposed addition would be setback twenty-two and one half (22.5) feet from the front property line.

(continued)

Required Findings of Fact

1. The need for a variance is not based on special circumstances or conditions unique to the specific parcel of land involved that are not generally applicable to other properties in this area and within P – zoning classifications.
2. The hardship is not caused by the provisions of the Zoning Ordinance.
3. Strict application of the provisions of the Zoning Ordinance would not deprive the property owner of the reasonable use of the property.
4. The requested variance is not the minimum variance that would accomplish the relief sought by the applicant.
5. The granting of the variance is not in harmony with the general purposes and intent of the Zoning Ordinance.

Staff Recommendation

Staff recommends reviewing the above findings and modifying them as necessary to support the decision of the Board.

Attachments

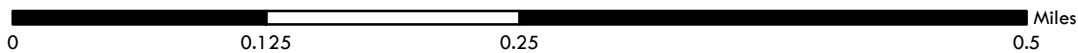
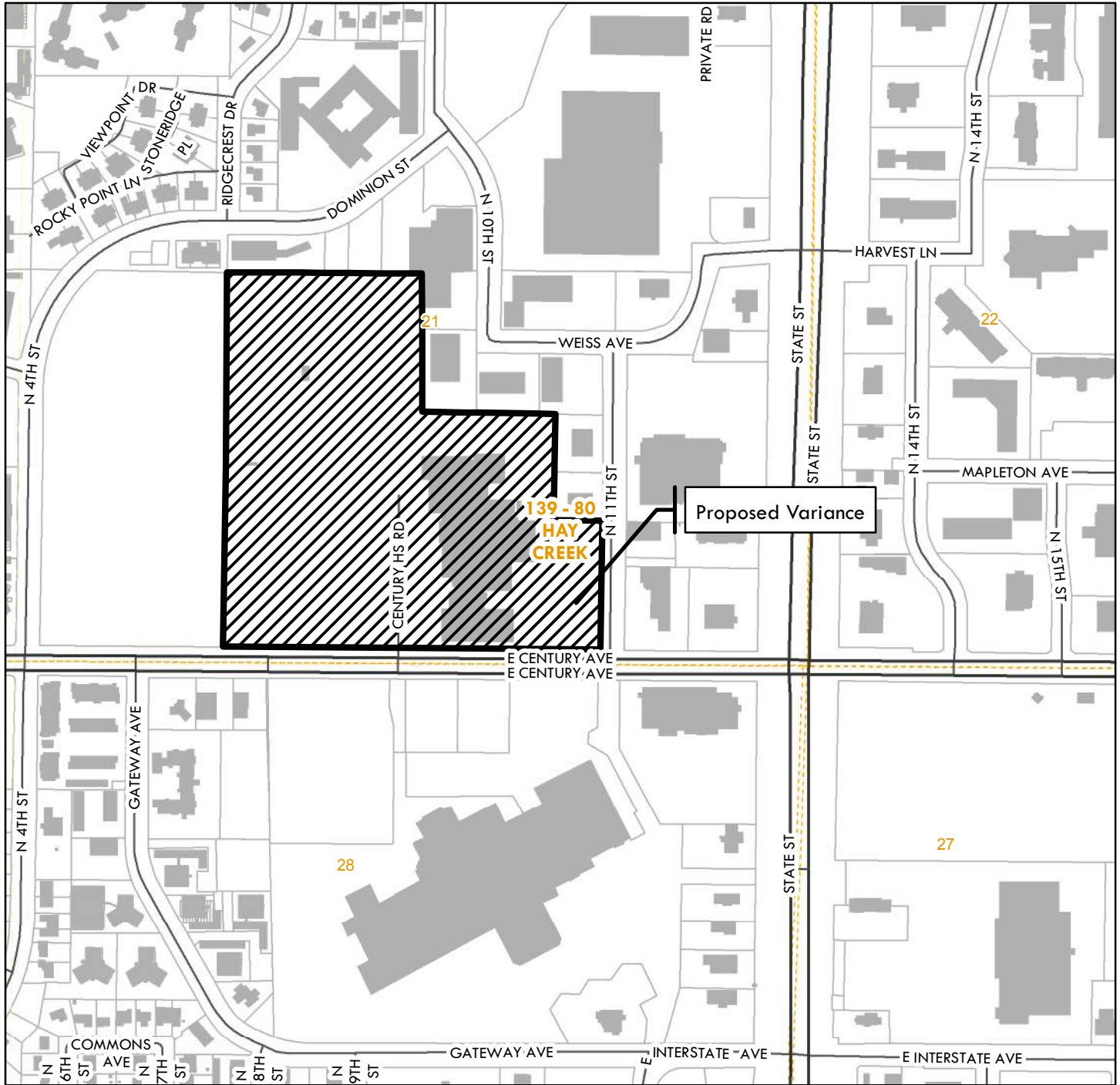
1. Location Map
2. Site plan
3. Written Statement of Hardship
4. 1973 Building Permit
5. 1978 Certificate of Occupancy
6. 1997 Building Permit
7. 1997 Inspection notes

Staff report prepared by: Jenny Wollmuth, AICP, CFM, Planner
701-355-1845 | jwollmuth@bismarcknd.gov



Proposed Variance (Front Yard) Lots 2-3, Block 1, High School Addition

Project
Location Map



City Limits



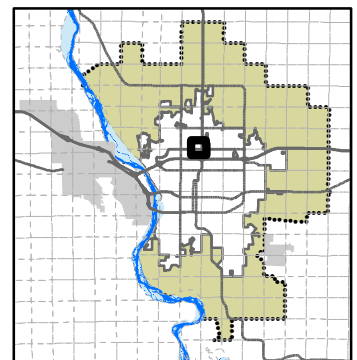
Bismarck ETA Jurisdiction

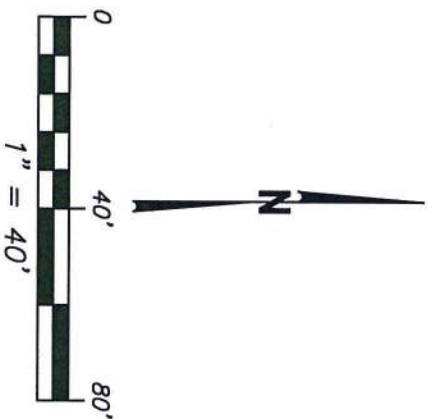
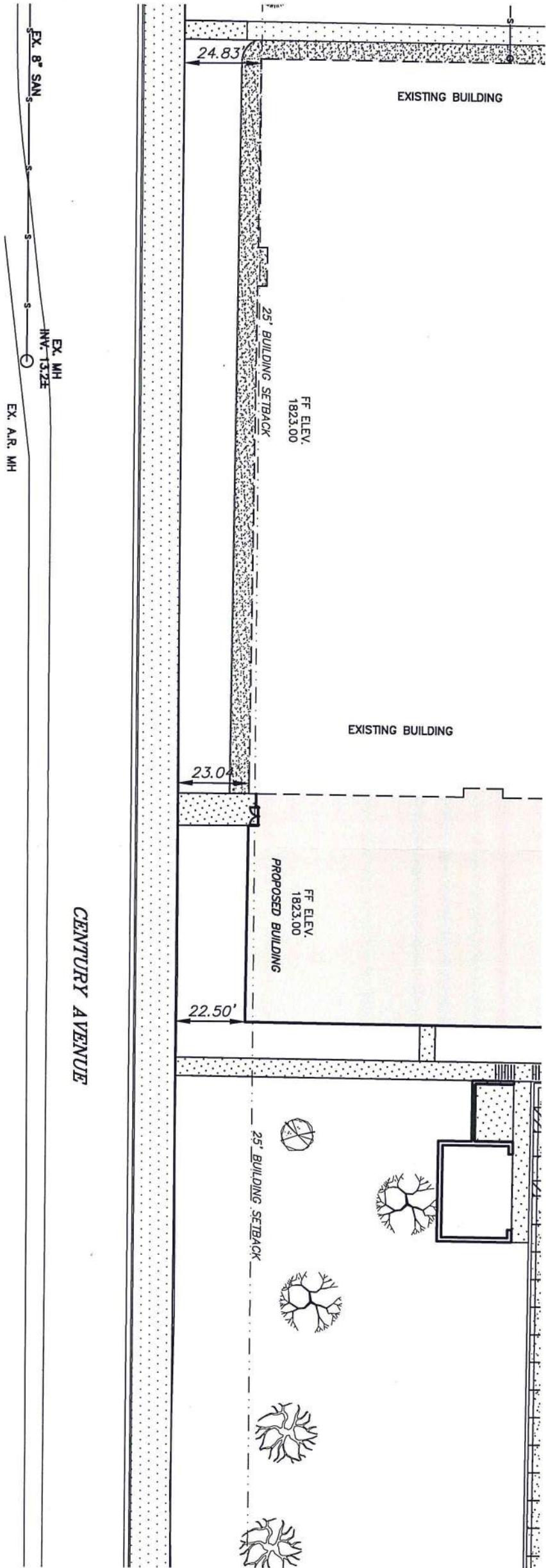
Section, township, and
range indicated in orange



City of Bismarck
Community Development Department
Planning Division
August 8, 2017 (HLB)

This map is for representational use only and does not represent a survey. No liability is assumed as to the accuracy of the data delineated hereon.





SWENSON, HAGEN & COMPANY P.C.
 909 Basin Avenue
 Bismarck, North Dakota 58504
 sheng@swensonhagen.com
 Phone (701) 223 - 2600
 Fax (701) 223 - 2606

Surveying
 Hydrology
 Land Planning
 Civil Engineering
 Landscape & Site Design
 Construction Management

CENTURY HIGH SCHOOL

EXHIBIT ONE
EAST BUILDING ADDITION
FRONT YARD SETBACK VARIANCE

RECEIVED
 AUG 14 2011



City of Bismarck
Community Development Department
Planning Division
Phone: 701-355-1840 * FAX: 701-222-6450 * TDD: 711
PO Box 5503 * Bismarck, ND 58506-5503
planning@bismarcknd.gov

Last Revised: 01/2017

WRITTEN STATEMENT OF HARDSHIP (VARIANCE REQUEST)

NOTE: WRITTEN STATEMENTS OF HARDSHIP MUST ACCOMPANY EVERY VARIANCE REQUEST APPLICATION

PROPERTY INFORMATION

Property Address or Legal Description:
(Lot, Block, Addition/Subdivision)

1000 East Century Avenue

Location of Property:

☒ City of Bismarck

☐ ETA

Type of Variance Requested:

Variance from front yard setback

Applicable Zoning Ordinance:
(Chapter/Section)

14-04-16.4

Describe how the strict application of the requirements of the Zoning Ordinance would limit the use of the property. (Only limitations due to physical or topographic features – such as an irregularly shaped, narrow, shallow or steep lot or other exceptional physical or topographic condition – that are unique characteristics and not applicable to other properties in the neighborhood are eligible for a variance. Variances cannot be granted on the basis of economic hardship or inconvenience.)

Request a variance from the 25' front yard setback along Century Avenue. The existing building encroaches into the setback from 0.2 feet on the west side to 1.96 feet on the east side. To maintain a straight building line, the southeast corner of the proposed addition would be 22.5' from the right of way.

Describe how these limitations would deprive you of reasonable use of the land or building involved, and result in unnecessary hardship.

To place the proposed building addition behind the 25 foot setback would require a 2 foot jog for the interior hallways and a 2 foot jog along the exterior perimeter of the building. Interior sight distance and student pathways are affected. Since the addition ties into the existing building on the north, the 2.5 feet would need to be taken out of hallway widths or preferred classroom sizes.

Describe how the variance requested is the minimum variance necessary to allow reasonable use of the property.

In order to maintain a straight interior and exterior building line and to maintain similar classroom sizes and/or hallway configurations, the minimum request is to allow the southeast corner of the proposed building to be placed 22.5' off the property line. The placement of the building will not be causing any harm to the welfare of the public.

I CERTIFY THAT THIS IS A MICROFILM COPY OF THE RECORDS OF THE CITY
BUILDING INSPECTION DEPARTMENT, BISMARCK, NORTH DAKOTA.

DATE 10/19/29

SIGNATURE Cecil L. Lohr

APPLICATION FOR BUILDING PERMIT

Application No. 73-410

Bismarck, North Dakota, 11-26

I, the Building Inspector:

The undersigned hereby makes application, for a permit to construct the following described building, and in consideration of the issue and delivery to me by the Building Inspector of the City of Bismarck of such permit, hereby agrees to do the proposed work in accordance with the description below set forth and according to the provisions of the ordinances of the City of Bismarck, and hereby states that the facts set forth by me are true and correct and the undersigned further agrees and understands that if the proposed work is not done in accordance with the description hereinafter set forth, this building permit shall immediately terminate and be void and of no effect and the undersigned shall be in the same position as respects all incidents of law, as though no permit had been issued and shall be subject to prosecution accordingly.

This permit expires in 3 years but must be renewed every 6 months.

Note: All inspection will be made at request of builder at completion of stages.

Owner: Bismarck School Board

Builder: John Lohr

No.: 1000

Street: Century Ave

Part of Lot:

Lot: Part of S.E. 1/4 Sec. 21

Block: T-187 N. 60W

Addition:

District: To Be Completed:

Cost less land: 2,355,890

Uses: High School

No. Rooms:

No. Bedrooms:

Baths:

Stories: 1

No. Families:

Front: 297' Depth: 452'

Size of Eaves:

Planner of Construction: John Lohr

Garage Size:

Street Parking Space No.

Name of the BUILDING INSPECTOR:

Permission is hereby granted to Bismarck School Board to construct

The Permit is hereby granted upon the express conditions that the person to whom it is granted, his agents, employees and workmen, that all of the work done in, around and upon said building or any part thereof, conform in all respects to the ordinances of the City of Bismarck concerning the construction, alteration, maintenance, repair and removal of buildings and the ordinance of said City known as the Zoning Ordinance.

Owner or Builder: John Lohr

Lot Size:
Depth of Front Yard: 174' South
Depth of Side Yard: 50' East
Total Finished Area: 111,400
Area of Main Building:
Area of Accessory Buildings:
Total Area: 111,400
Lot Area:
% of Lot Occupied:
Type of Apartment:
Elevator:

FEES	
Certificate of Occupancy	\$5.00
Permit	\$377.00
Survey	
Total	\$377.00

PERMIT TO BUILD

Bismarck, North Dakota 11-26

1975

Building Permit No. 73-410

Witness

Building Inspector

BUY NORTH DAKOTA PRODUCTS

I CERTIFY THAT THIS IS A MICROFILM COPY OF THE RECORDS OF THE CITY
BUILDING INSPECTION DEPARTMENT, BISMARCK, NORTH DAKOTA.

DATE

1/18/78

SIGNATURE

C. Schuler

CITY OF BISMARCK, NORTH DAKOTA
DEPARTMENT OF HEALTH
DIVISION OF ENVIRONMENT, SANITATION AND BUILDING INSPECTION
CERTIFICATE OF COMPLETION AND OCCUPANCY

FOR BUILDING PERMIT # 73-470

January 19, 1978

PERMISSION IS HEREBY GRANTED TO Bismarck School Board 1000 Century Avenue
(Builder or Owner) address
to use High school

all floors of the structure located on the property described in this Building Permit for
the use listed in said Building Permit and further said use being allowed in a _____
_____ District.

This further certifies that such structure has been constructed in compliance with all
city ordinances, with the following exceptions:

THIS STRUCTURE SHALL NOT BE ALTERED OR
ITS USE CHANGED WITHOUT PERMISSION FROM
THE CITY OF BISMARCK.

CITY BUILDING INSPECTOR

BY _____

I CERTIFY THAT THIS IS A MICROFILM COPY OF THE RECORDS OF THE CITY
BUILDING INSPECTION DEPARTMENT, BISMARCK, NORTH DAKOTA.

DATE 9-12-02 SIGNATURE Melissa Carillo

SIP010 8/01/1997 B U I L D I N G P E R M I T Permit Num 1997-00621

Property Address 1000 E CENTURY AV Location CITY OF BISMARCK

Special Flood Hazard NO
Architect JIRAN ARCHITECTS
Deeded Owner BISMARCK PUBLIC SCHOO DIST#1
Contractor BAILEY CONSTRUCTION
Nondeeded Owner CENTURY HIGH SCHOOL
Contact Person BERNIE BAILEY
Elevation
Contractor Num 2368
Phone Num 663-0462

Desc Of Work ADDITION- 1ST FLOOR- 34,000 SF, 2ND
FLOOR- 30,000 SF. - REMODELING 37,000 SF

Property Number 690-001-010 Block 1
Addition Name HIGH SCHOOL
Legal Desc 1. 2-3 (SCHOOL)
2.
3. 4.

Type Of Work 2 - ADDITION Census Code 0801 Zoning Dist P - PUBLIC USE
Occupancy Group E - EDUCATIONAL Division
Num Living Units 0 Stories 2
Size Eaves 0 Type Const II
Ownership Code 2 - PUBLIC Required Front Yard
Required Side Yard
Required Rear Yard

	Previous Permit(s)	Current Permit	Total
Area Main Bldg	00	34,000	34,000
Garage Size	00	00	00
Total Finished	00	64,000	64,000
Total Basement Finished	00	00	00
Area Acc Bldgs	00	00	00
Num Off Street Parking	00	00	00
Area Off Street Parking	00	00	00
Total	00	34,000	34,000

Lot Front Width	.00	Max Bldg Width	.00	Lot Square Ft	441,500
Lot Rear Width	.00	Bldg Width	.00	Percent Occupied	.06
Avg Lot Width	.00				

Cost Less Land 5,942,850.00 Water Mtr .75=0 1=0 1.5=0 2=0 3=0 Concrete Work NO

Charges:
Permit Fee 15,639.50 Water Meter .00 Lot Survey .00
Road Approach .00 Mobile Home .00
TOTAL 15,639.50 ***

Payment Method Cash

***** NOTICE *****

Separate permits are required for electrical, plumbing, and mechanical (HVAC).
This permit becomes null and void if work or construction authorized is not commenced within 180 days, or if construction or work is suspended or abandoned for a period of 60 days at any time after work commenced.
All provisions of applicable codes and ordinances governing this type of work will be complied with whether specified herein or not. Nothing in this permit grants any right or privilege to erect or modify any structure or to use any premises herein described for any purpose or in any manner prohibited by the applicable code or the governing zoning ordinance.
All inspections will be made at request of contractor or owner. Phone 258-2070
I hereby certify that I have read and examined this application and know the same to be true and correct.

Don J. Bailey
Permit Applicant

CARRIE
Issued By

JACK HEGEDUS
Building Inspector

<u>Location</u>	<u>Num Add</u>	<u>Quad</u>	<u>Street Name</u>	<u>Desc</u>	<u>Additional Desc</u>	<u>Type</u>
<u>1</u>	<u>1000</u>	<u>E</u>	<u>CENTURY</u>	<u>AV</u>		

<u>Permit Type</u>	<u>Permit Num</u>	<u>Company Name</u>	<u>Open</u>
BUILDING PERMITS	1997 00621	BAILEY CONSTRUCTION	NO

Desc of Work ADDITION- 1ST FLOOR- 34,000 SF, 2ND FLOOR- 30,000 SF. - REMODELING 37,000 SF CHANGED FROM CASH BASIS TO INVOICE-60998

<u>Line #</u>	<u>Insp Date</u>	<u>Insp Type</u>	<u>Activity Desc</u>	<u>Inspector</u>
1	10 / 28 / 1997	CHK	SHIFT #2 WITNESSED FIRE LINE FLUSH	MR
2	6 / 18 / 1998	CHK	WALK THRU AND 200PSI HYDRO FOR SPRINKLER SYSTEM--2ND FLOOR	MR
3	7 / 21 / 1998	CHK	BIWER (SHIFT 2) WITNESSED 200 PSI TEST FOR 1ST FLOOR ADDTN	MR
4	4 / 06 / 2001	FIN	CLOSE ADDN-DONE	KH

F5=Permit Detail F9=Redisplay Addresses Page Down=More Activity
 F11=Bypass Display F12=Redisplay Permits F16=RVI Page Up=Previous Activity



STAFF REPORT

City of Bismarck
Community Development Department
Planning Division

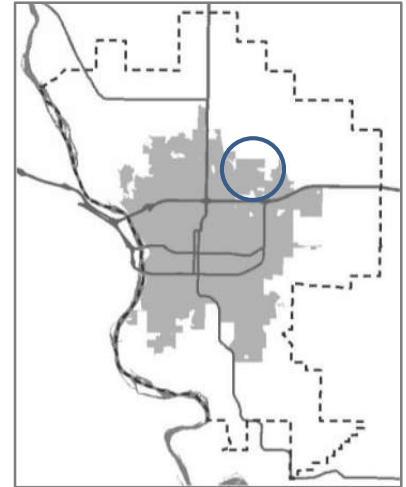
Agenda Item 3
September 7, 2017

Application for: Variance

TRAKiT Project ID: VAR2017-017

Project Summary

Title:	Lot 1, Block 4, Edgewood Village First Addition (3559 Augusta Place)
Status:	Board of Adjustment
Owner(s):	Philip and Carolyn Ehli
Project Contact:	Terry Pearson, Pearson Homes
Location:	In northeast Bismarck, south of East Calgary Avenue, east of North 19 th Street, along the east side of Augusta Place.
Request:	Variance from Section 14-04-06(7) of the City Code of Ordinances (R10 – Residential / Front Yard)



Staff Analysis

The applicant is requesting a variance to reduce the required front yard setback from twenty-five (25) feet to fifteen (15) feet for the purpose of constructing a single-family dwelling.

The proposed single-family dwelling would be accessed via a private access easement (Augusta Place). Front yard setbacks are measured from the front property line or from the edge of an access easement. As the private access easement (Augusta Place) is located within the properties it is intended to serve, the front yard setback is taken from the edge of the access easement.

Applicable Provision(s) of Zoning Ordinance

Section 14-02-03 of the City Code of Ordinances (Definitions) defines a variance as, "A device which grants a property owner relief from certain provisions of the zoning ordinance when, because of the particular physical surroundings, shape or topographical condition of the property, compliance would result in a particular hardship upon the owner, as distinguished from a mere inconvenience or desire to increase the financial return."

Section 14-04-06(7) of the City Code of Ordinances (R10 – Residential / Front Yard) states, "Each lot shall have a front yard of not less than twenty-five (25) feet in depth." According to the site plan submitted with the application, the proposed single-family dwelling would be setback fifteen (15) feet from the private access easement (Augusta Place).

Required Findings of Fact

1. The need for a variance is not based on special circumstances or conditions unique to the specific parcel of land involved that are not generally applicable to other properties in this area and within R10 – zoning classifications.
2. The hardship is not caused by the provisions of the Zoning Ordinance.
3. Strict application of the provisions of the Zoning Ordinance would not deprive the property owner of the reasonable use of the property.
4. The requested variance is not the minimum variance that would accomplish the relief sought by the applicant.

(continued)

5. The granting of the variance is not in harmony with the general purposes and intent of the Zoning Ordinance.

Attachments

1. Location Map
2. Site Plan
3. Written Statement of Hardship

Staff Recommendation

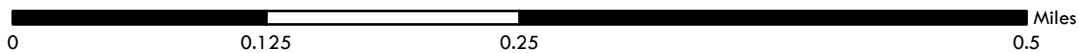
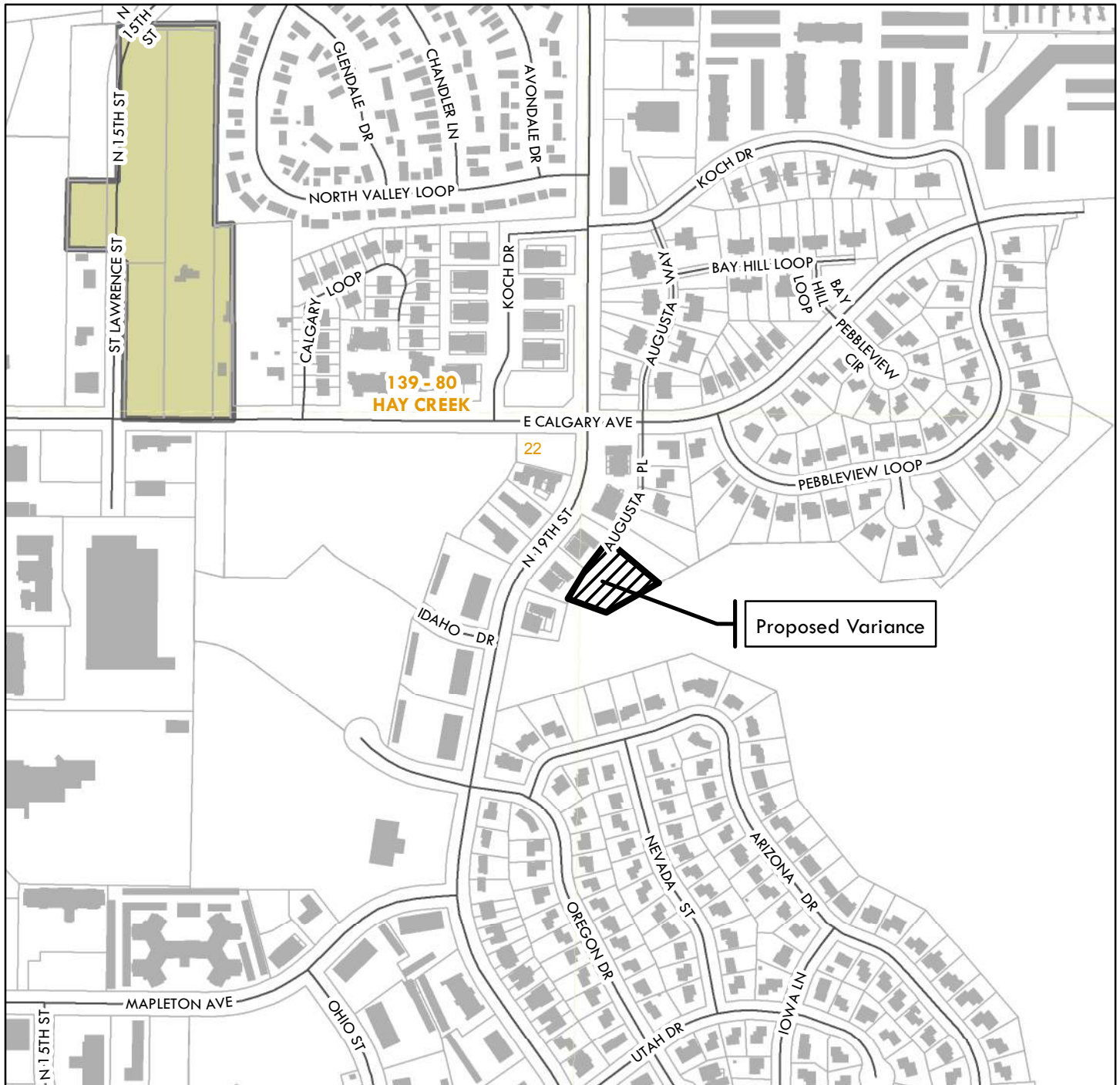
Staff recommends reviewing the above findings and modifying them as necessary to support the decision of the Board.

Staff report prepared by: Jenny Wollmuth, AICP, CFM, Planner
701-355-1845 | jwollmuth@bismarcknd.gov



Proposed Variance (Front Yard)
Lot 1, Block 4, Edgewood Village First Addition

Project
Location Map



City Limits

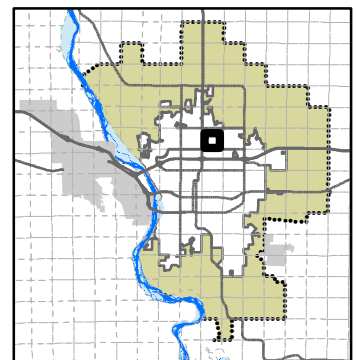
Bismarck ETA Jurisdiction

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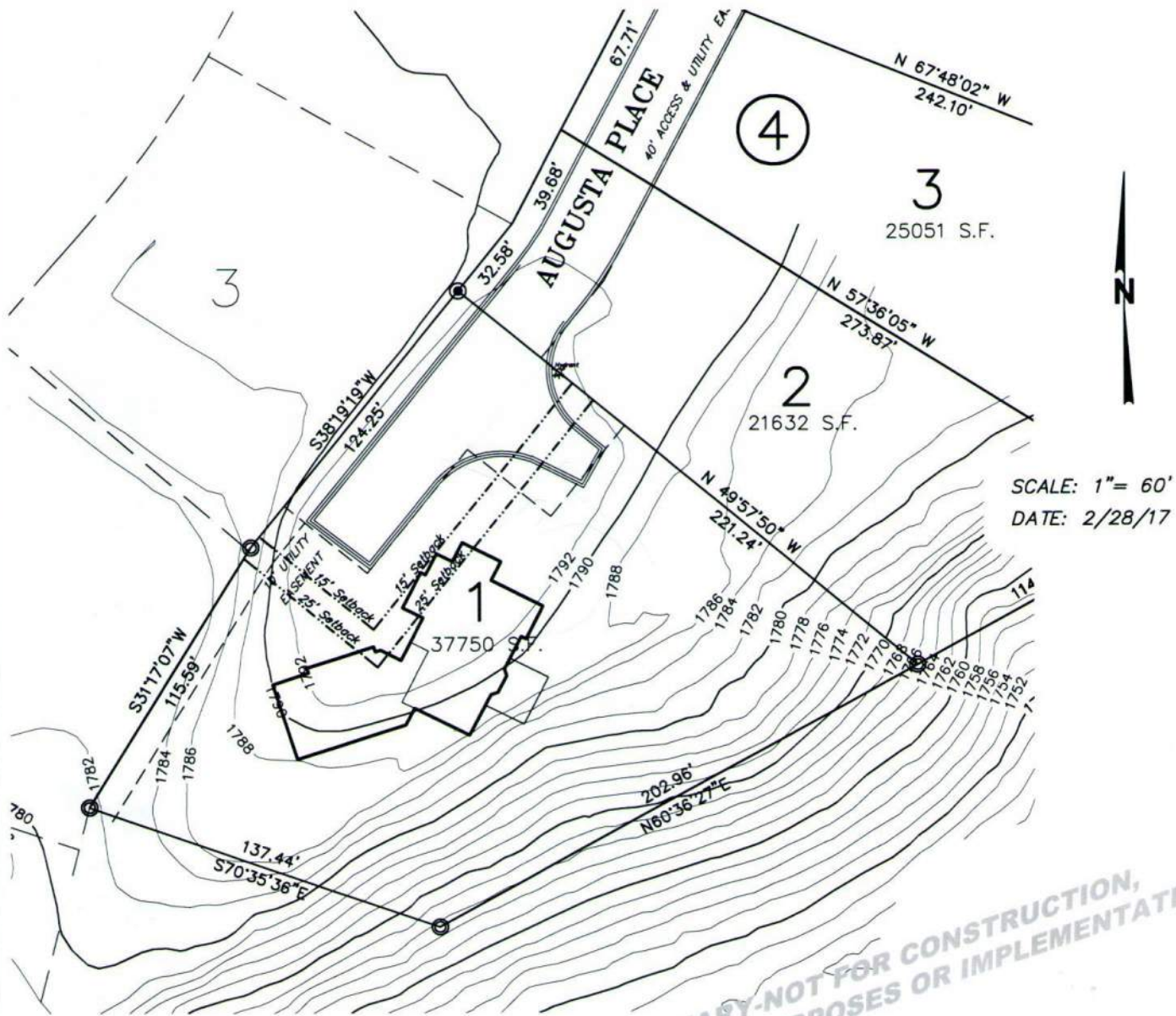
City of Bismarck
Community Development Department
Planning Division
August 23, 2017 (HLB)

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LOT SURVEY EXHIBIT

LOT	1	BLOCK	4
SUBDIVISION	Edgewood Village 1st		
ADDRESS	3559 Augusta Place		
BUILDER	Pearson Homes		



- ☐ FOUND MONUMENT
- ☒ SET MONUMENT
- ☐ BUILDING SETBACK OR NON-ACCESS STAKE



SWENSON, HAGEN & COMPANY P.C.

Surveying
Hydrology
Land Planning
Civil Engineering
Landscape & Site Design
Construction Management

909 Basin Avenue
Bismarck, North Dakota 58504
sheng@swensonhagen.com
Phone (701) 223 - 2600
Fax (701) 223 - 2606

NOTES

PLS

THE BUILDING SETBACK LINES SHOWN ARE TYPICAL, THERE MAY BE OTHER BUILDING RESTRICTIONS THAT AFFECT THIS PROPERTY. THE BUILDER IS RESPONSIBLE FOR VERIFYING THE BUILDING SETBACKS AND BUILDING DIMENSIONS. LOT DIMENSIONS ARE FROM PLAT. BUILDING AS SHOWN WAS FIELD STAKED.

FAXED OR EMAILED TO:
BUILDER OR OWNER

DATED:



City of Bismarck
Community Development Department
Planning Division
Phone: 701-355-1840 * FAX: 701-222-6450 * TDD: 711
PO Box 5503 * Bismarck, ND 58506-5503
planning@bismarcknd.gov

Last Revised: 01/2017

WRITTEN STATEMENT OF HARDSHIP (VARIANCE REQUEST)

NOTE: WRITTEN STATEMENTS OF HARDSHIP MUST ACCOMPANY EVERY VARIANCE REQUEST APPLICATION

RECEIVED
AUG 14 2017

PROPERTY INFORMATION

Property Address or Legal Description: (Lot, Block, Addition/Subdivision)	Lot 1 Block 4 Edgewood Village 1st
Location of Property:	<input checked="" type="checkbox"/> City of Bismarck <input type="checkbox"/> ETA
Type of Variance Requested:	Variance from the required 25' front yard setback
Applicable Zoning Ordinance: (Chapter/Section)	14-04-06.2.e

Describe how the strict application of the requirements of the Zoning Ordinance would limit the use of the property. (Only limitations due to physical or topographic features – such as an irregularly shaped, narrow, shallow or steep lot or other exceptional physical or topographic condition – that are unique characteristics and not applicable to other properties in the neighborhood are eligible for a variance. Variances cannot be granted on the basis of economic hardship or inconvenience.)

Due to the topographic restrictions of the lot, An adjustment from the required 25 foot front yard setback to a 15 foot setback is requested. The rear yard of the lot has a steep slope and does not allow safe placement of the home without moving the residence closer to the private street.

Describe how these limitations would deprive you of reasonable use of the land or building involved, and result in unnecessary hardship.

Without adjusting the front yard setback to 15 feet, the lot does not allow for safe placement of the proposed residence on the lot due to steep slopes in rear yard.

Describe how the variance requested is the minimum variance necessary to allow reasonable use of the property.

The requested adjustment in front yard setback is the minimum reasonable variance needed to allow for placement of the proposed residence out of the sloped area in the rear yard.



STAFF REPORT

City of Bismarck
Community Development Department
Planning Division

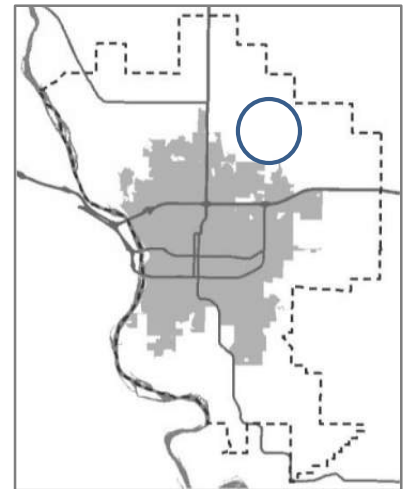
Agenda Item 4
September 7, 2017

Application for: Variance

TRAKiT Project ID: VAR2017-019

Project Summary

Title:	Lot 2, Block 1, Enchanted Woods Subdivision (6565 Evergreen Avenue)
Status:	Board of Adjustment
Owner(s):	Bradley and Kara Erickson
Project Contact:	Bradley and Kara Erickson
Location:	Northeast of Bismarck, south of 71 st Avenue NE and east of Centennial Road, along the east side of Evergreen Avenue.
Request:	Variance from Section 14-04-01(6) of the City Code of Ordinances (RR – Residential / Rear Yard)



Staff Analysis

The applicant is requesting a variance to reduce the rear yard setback along the east side of their property from sixty-four (64) feet to fifty (50) feet for the purpose of constructing a single-family dwelling.

Applicable Provision(s) of Zoning Ordinance

Section 14-02-03 of the City Code of Ordinances (Definitions) defines a variance as, "A device which grants a property owner relief from certain provisions of the zoning ordinance when, because of the particular physical surroundings, shape or topographical condition of the property, compliance would result in a particular hardship upon the owner, as distinguished from a mere inconvenience or desire to increase the financial return."

Section 14-04-01(6) of the City Code of Ordinances (RR – Residential / Rear Yard) states, "Each lot or premises shall have a rear yard depth of not less than fifty (50) feet or twenty (20) percent of the depth of the lot or premises whichever is larger, but need not exceed seventy-five (75) feet." Twenty (20) percent of the of the depth of the lot is sixty-four (64) feet. According to the site plan submitted with the application, the proposed single-family dwelling would be set back fifty (50) feet from the rear yard property line along the east side of the property.

Required Findings of Fact

1. The need for a variance is not based on special circumstances or conditions unique to the specific parcel of land involved that are not generally applicable to other properties in this area and within RR – zoning classifications.
2. The hardship is not caused by the provisions of the Zoning Ordinance.
3. Strict application of the provisions of the Zoning Ordinance would not deprive the property owner of the reasonable use of the property.
4. The requested variance is not the minimum variance that would accomplish the relief sought by the applicant.
5. The granting of the variance is not in harmony with the general purposes and intent of the Zoning Ordinance.

Staff Recommendation

Staff recommends reviewing the above findings and modifying them as necessary to support the decision of the Board.

(continued)

Attachments

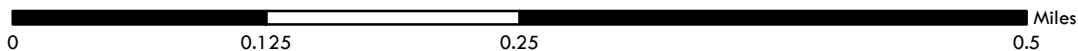
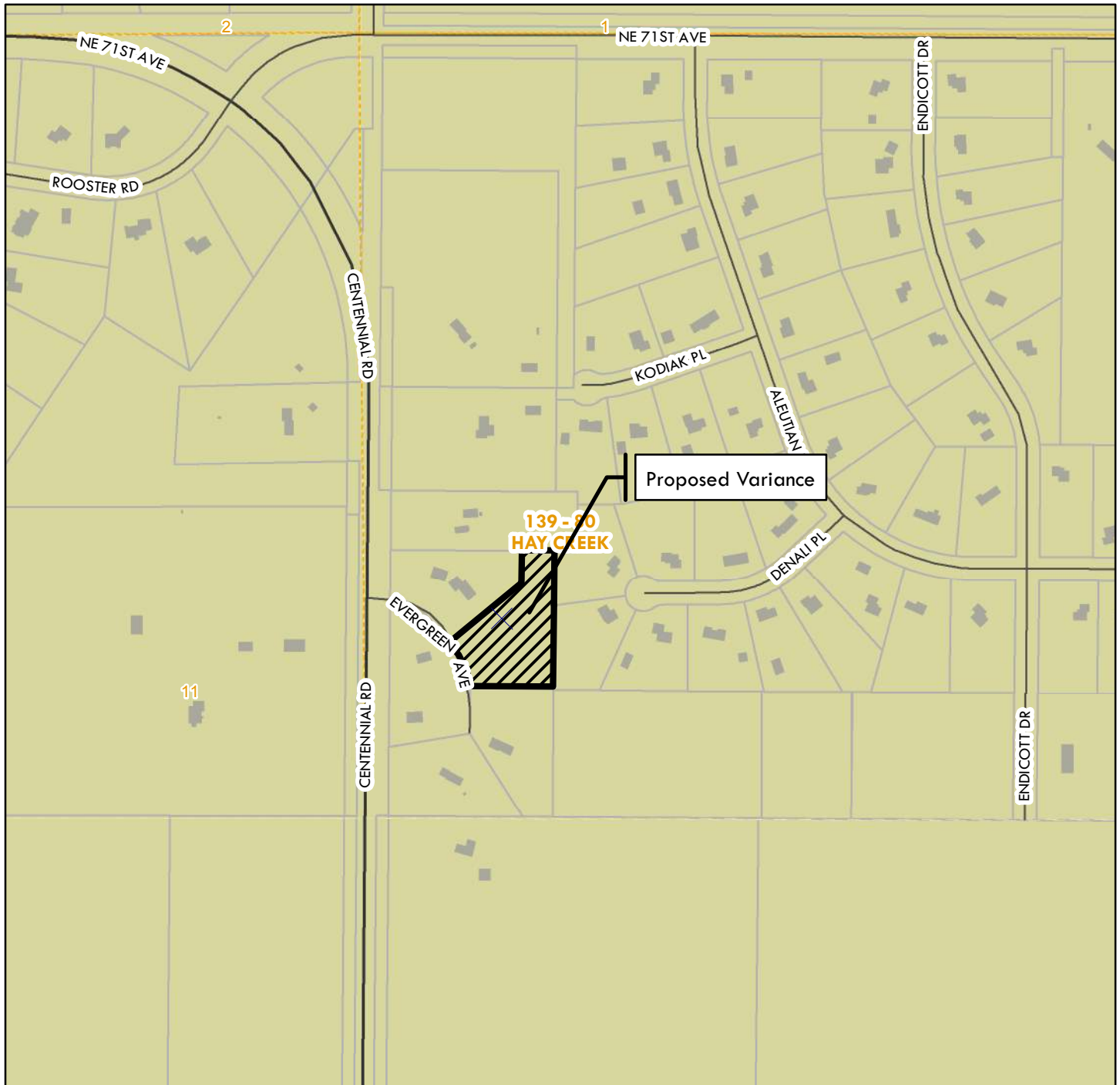
1. Location Map
2. Site Plan
3. Written Statement of Hardship

Staff report prepared by: Jenny Wollmuth, CFM, AICP, Planner
701-355-1845 | jwollmuth@bismarcknd.gov



Proposed Variance (Rear Yard)
Lot 2, Block 1, Enchanted Woods Subdivision

Project
Location Map



City Limits



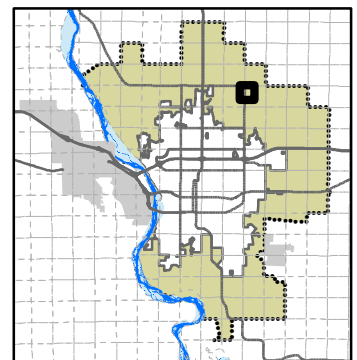
Bismarck ETA Jurisdiction

Section, township, and
range indicated in orange



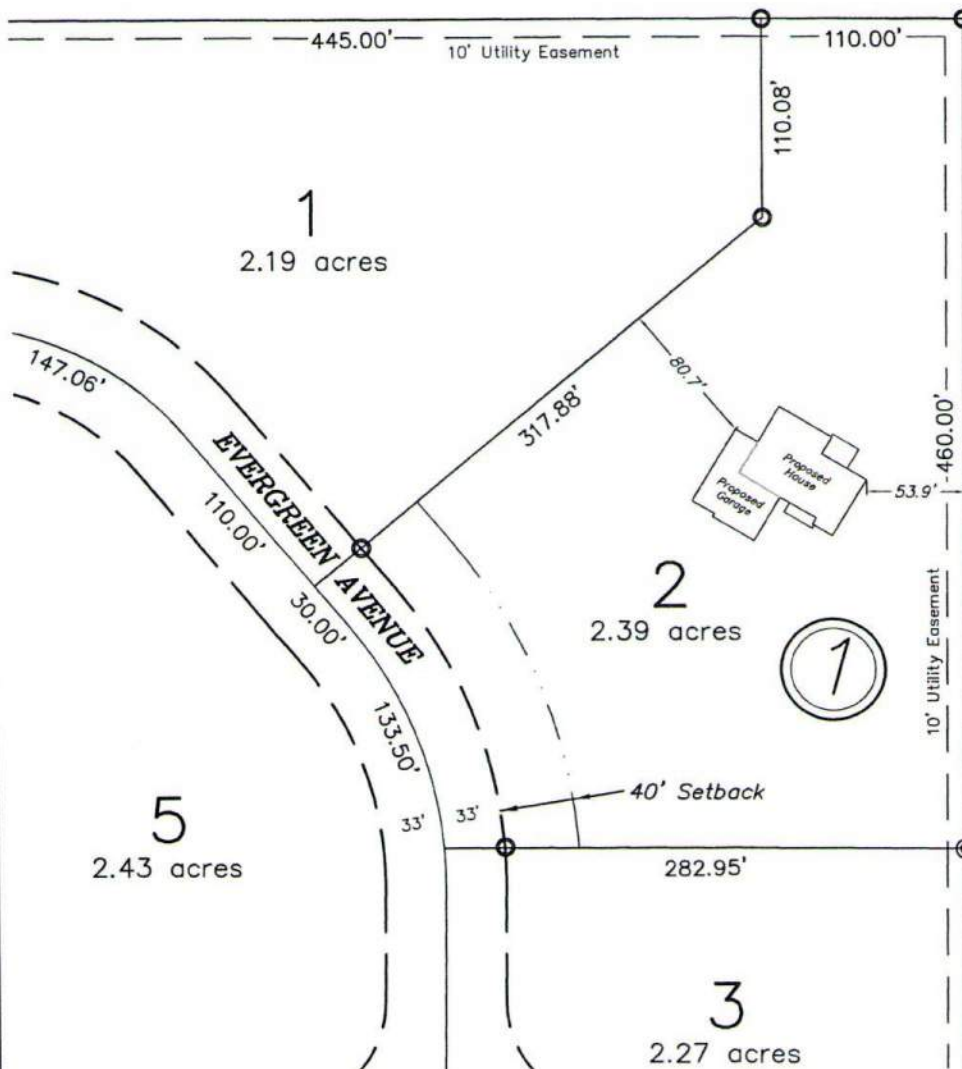
City of Bismarck
Community Development Department
Planning Division
August 14, 2017 (HLB)

This map is for representational use only and does not represent a survey. No liability is assumed as to the accuracy of the data delineated hereon.



LOT SURVEY EXHIBIT

LOT 2 BLOCK 1
 SUBDIVISION Enchanted Woods Subdivision
 ADDRESS 6565 Evergreen Avenue
 BUILDER Pinnacle Homes



SCALE: 1" = 100'
 DATE: 5/18/17



- FOUND MONUMENT
- SET MONUMENT
- BUILDING SETBACK OR NON-ACCESS STAKE



SWENSON, HAGEN & COMPANY P.C.

Surveying
 Hydrology
 Land Planning
 Civil Engineering
 Landscape & Site Design
 Construction Management

909 Basin Avenue
 Bismarck, North Dakota 58504
 sheng@swensonhagen.com
 Phone (701) 223 - 2600
 Fax (701) 223 - 2606

NOTES

PLS

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Last Revised: 01/2017

**WRITTEN STATEMENT
OF HARDSHIP
(VARIANCE REQUEST)**

RECEIVED
AUG 10 2017

NOTE: WRITTEN STATEMENTS OF HARDSHIP MUST ACCOMPANY EVERY VARIANCE REQUEST APPLICATION

PROPERTY INFORMATION

Property Address or Legal Description: (Lot, Block, Addition/Subdivision)	6565 Evegreen Ave, Bismarck, North Dakota
Location of Property:	<input type="checkbox"/> City of Bismarck <input checked="" type="checkbox"/> ETA
Type of Variance Requested:	Variance of rear yard setback requirement
Applicable Zoning Ordinance: (Chapter/Section)	14-04-01(6)

Describe how the strict application of the requirements of the Zoning Ordinance would limit the use of the property. (Only limitations due to physical or topographic features – such as an irregularly shaped, narrow, shallow or steep lot or other exceptional physical or topographic condition – that are unique characteristics and not applicable to other properties in the neighborhood are eligible for a variance. Variances cannot be granted on the basis of economic hardship or inconvenience.)

In looking at the Google image of our lot, attached as Exhibit 1, you can see that the most unique feature of our lot is the abundance of trees. Most of our neighbors built on the front of their lots, but our lot is different because we had a natural opening towards the rear of our property. We currently have our house staked at 53.9 feet from the rear of our lot. In order to meet the rear yard setback required by the City we would have to move to the east another 11 feet. By requesting this variance we are attempting to preserve a great number of trees, the wildlife that lives in those trees, and the privacy and sound buffer those trees provide. As you can see on the attached exhibit, the extra 11 feet we would be forced to move to the west would cost us a great number of trees and the resulting loss of wildlife. We purchased the lot because of the trees and wildlife and would be upset to lose them. We would like to keep the home at the minimum rear depth of 50' to reduce the impact on our neighbor to the east, while preserving the maximum number of trees on our

Describe how these limitations would deprive you of reasonable use of the land or building involved, and result in unnecessary hardship.

In determining the question of reasonableness it is important it to look at the benefits we would receive if the variance was granted versus the negative results it would have on our neighbors. We have the benefit of preserving hundreds of trees and habitat for wildlife, as well as keeping our house secluded and private. Our neighbors would also be granted more seclusion and privacy by having our house protected by the trees. The trees in the front of our lot are fairly mature and spaced out. The trees that provide the most privacy and sound suppression to the road are the trees we would be required to cut if the variance was not granted. Our neighbor to the east did not build on the back portion of his lot, so granting a variance should not cause him any negative impact. He has also planted multiple rows of evergreen trees that are about 10 feet tall and his lot is at a higher elevation than our lot. Because of these factors he shouldn't be able to see our house over his trees. I can think of zero negative impacts to our neighbors as a result of the variance being granted.

Describe how the variance requested is the minimum variance necessary to allow reasonable use of the property.

We are requesting a variance to move the rear setback requirement from 64 to 50 feet. We currently have the house plotted at 53.9' from the rear of the property to make sure the gutters would not overhang into the 50 foot setback. This is the minimum variance necessary because it allows us to preserve the maximum number of trees and wildlife. It takes a quick look at Exhibit 1 to realize that any movement further to the east will cause us to take down additional trees. By granting this variance to a 50' setback from the rear yard we would be preserving the maximum number of trees and wildlife. These trees benefit us and our neighbors by also providing a sound buffer and privacy. By only requesting the variance to a 50' setback we are hoping to maximize the reasonable use of our land while at the same time minimizing the negative impacts to our neighbors.



STAFF REPORT

City of Bismarck
Community Development Department
Planning Division

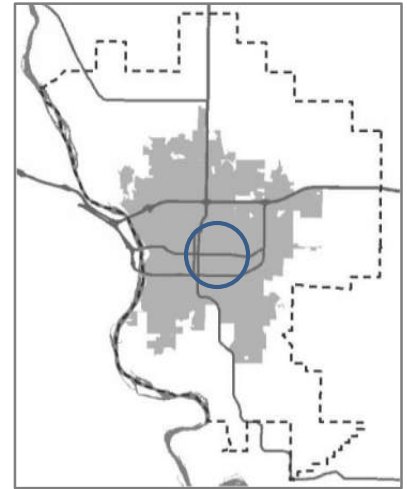
Agenda Item 5
September 7, 2017

Application for: Variance

TRAKiT Project ID: VAR2017-018

Project Summary

Title:	Lots 1-7 and Lots 21-24 and all of the vacated alley adjacent to the east-west and north-south alleys of the East half of said block, Block 33, William's Survey (1019 E Front Avenue)
Status:	Board of Adjustment
Owner(s):	Rodney Boll, Boll Properties
Project Contact:	Rodney Boll
Location:	In central Bismarck, between South 10 th Street and South 11 th Street, along the south side of East Front Avenue.
Request:	Variance from Section 14-03-10 of the City Code of Ordinances (Off-street Parking and Loading)



Staff Analysis

The applicant is requesting a variance to reduce the amount of off-street parking spaces required as a result of converting a portion of an existing building into a microbrewery.

There are three buildings located within this property, the building along the southeast side of the property is proposed to be demolished for the installation of an off-street parking lot. The remaining buildings will be used by Boll Cabinets Inc. and the proposed microbrewery. According to the renderings submitted with the application, approximately 6,000 square feet will be occupied by the proposed microbrewery and approximately 13,273 square feet will be occupied by Boll Cabinets Inc.

Off-street Parking and Loading regulations are intended to provide an appropriate number of off-street parking spaces in proportion to the needs of the proposed use. The parking calculations for both Boll Cabinets Inc. and the proposed microbrewery are based on use.

The buildings occupied by Boll Cabinets Inc. are considered to be a service business /warehousing use (custom cabinet shop). A microbrewery is not specifically listed in the zoning ordinance. However, it

has been determined by the Zoning Administrator that the proposed use most closely resembles a bar or tavern and off-street parking and loading will be determined based on said use.

Based on the site plan, renderings and assessing information, one hundred eleven (111) off-street parking spaces for both the proposed brewery and Boll Cabinets Inc. are required. In particular, eight-eight (88) spaces for the brewery and twenty-three (23) spaces for Boll Cabinets. Inc. are required.

According to the site plan submitted with the application, thirty-eight (38) off-street parking spaces are proposed to be provided on site for both uses. If uses change, or expand additional off-street parking may be required.

Applicable Provision(s) of Zoning Ordinance

Section 14-02-03 of the City Code of Ordinances (Definitions) defines a variance as, "A device which grants a property owner relief from certain provisions of the zoning ordinance when, because of the particular physical surroundings, shape or topographical condition of the property, compliance would result in a particular hardship upon the owner, as distinguished from a mere inconvenience or desire to increase the financial return."

(continued)

Section 14-03-10 of the City Code of Ordinances (Off-street Parking and Loading) requires that for a bar or tavern use one (1) space for each fifty (50) square feet of gross floor area, plus one (1) space for each employee on the largest shift. In addition, patio areas shall be included when calculating floor area.

According to the site plan submitted with the application, the required number of off-street parking spaces is eighty (80) plus an addition eight (8) spaces for employees for a total of eighty-eight (88) off-street parking spaces.

Section 14-03-10 of the City Code of Ordinances (Off-street Parking and Loading) requires that five (5) spaces or one (1) space for each two hundred and fifty (250) square feet developed to public sales, service or office use, and one space for each six hundred (600) square feet of storage area, whichever is greater. Based on the size of the existing buildings occupied by Boll Cabinets Inc., twenty-three (23) off street parking spaces would be required.

Required Findings of Fact

1. The need for a variance is not based on special circumstances or conditions unique to the specific parcel of land involved that are not generally applicable to other properties in this area and within MA – zoning classifications.

2. The hardship is not caused by the provisions of the Zoning Ordinance.
3. Strict application of the provisions of the Zoning Ordinance would not deprive the property owner of the reasonable use of the property.
4. The requested variance is not the minimum variance that would accomplish the relief sought by the applicant.
5. The granting of the variance is not in harmony with the general purposes and intent of the Zoning Ordinance.

Staff Recommendation

Staff recommends reviewing the above findings and modifying them as necessary to support the decision of the Board.

Attachments

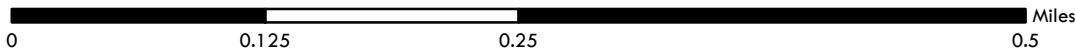
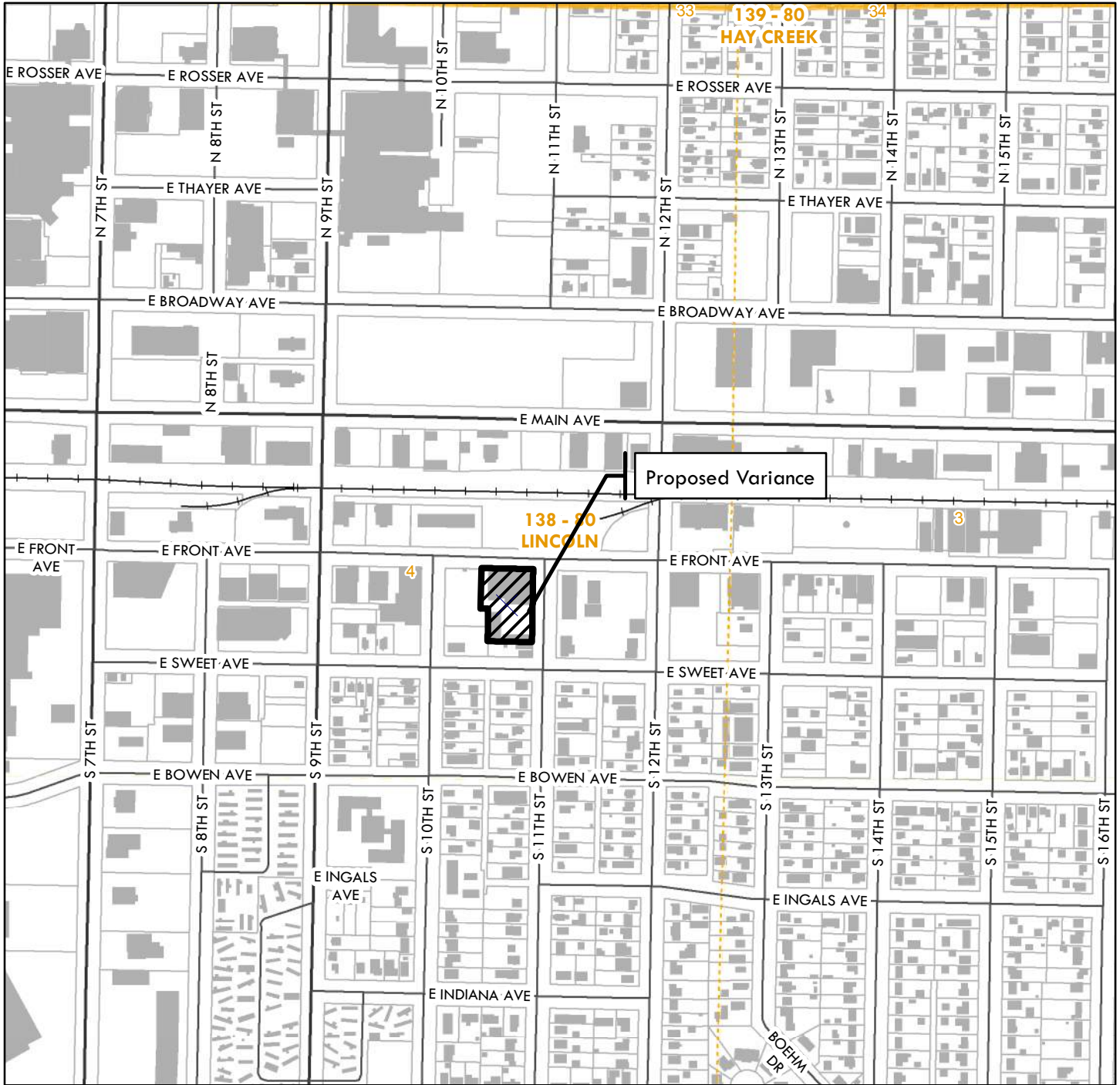
1. Location Map
2. Site plan
3. Written Statement of Hardship

Staff report prepared by: Jenny Wollmuth, CFM, Planner
701-355-1845 | jwollmuth@bismarcknd.gov



Proposed Variance (Off-Street Parking and Loading)
Lots 1-7 and Lots 21-24 and all the vacated alley adjacent and the
East-West and North-South alleys of the E1/2 of said block,
Block 33, William's Survey

Project
Location Map



City Limits



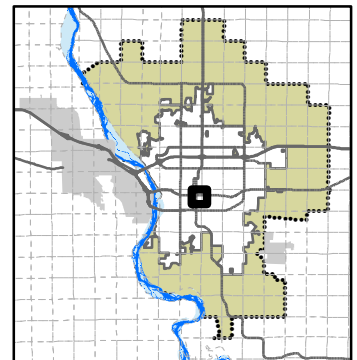
Bismarck ETA Jurisdiction

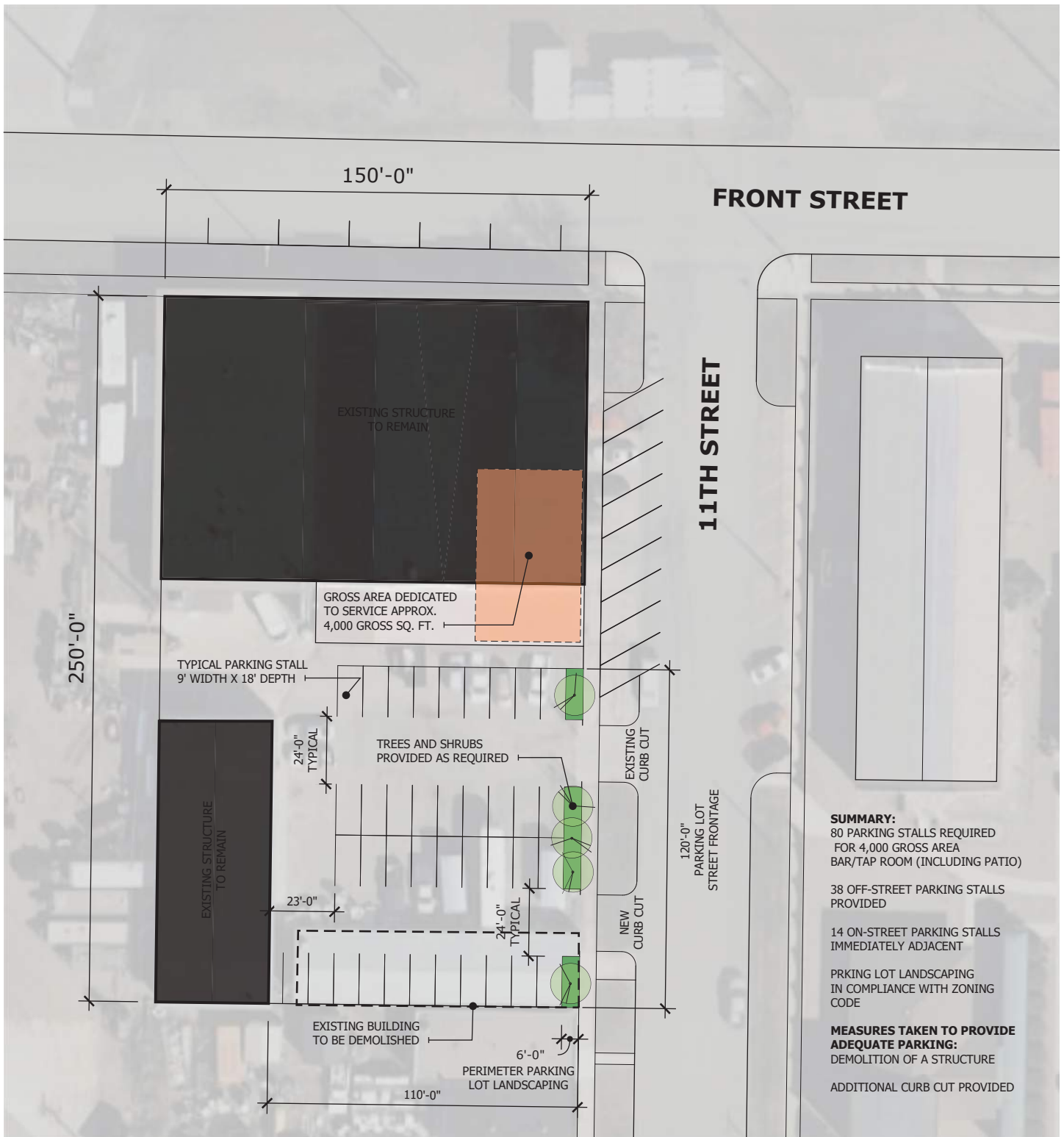
Section, township, and
range indicated in orange



City of Bismarck
Community Development Department
Planning Division
August 14, 2017 (HLB)

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SUMMARY:
80 PARKING STALLS REQUIRED
FOR 4,000 GROSS AREA
BAR/TAP ROOM (INCLUDING PATIO)

38 OFF-STREET PARKING STALLS
PROVIDED

14 ON-STREET PARKING STALLS
IMMEDIATELY ADJACENT

PARKING LOT LANDSCAPING
IN COMPLIANCE WITH ZONING
CODE

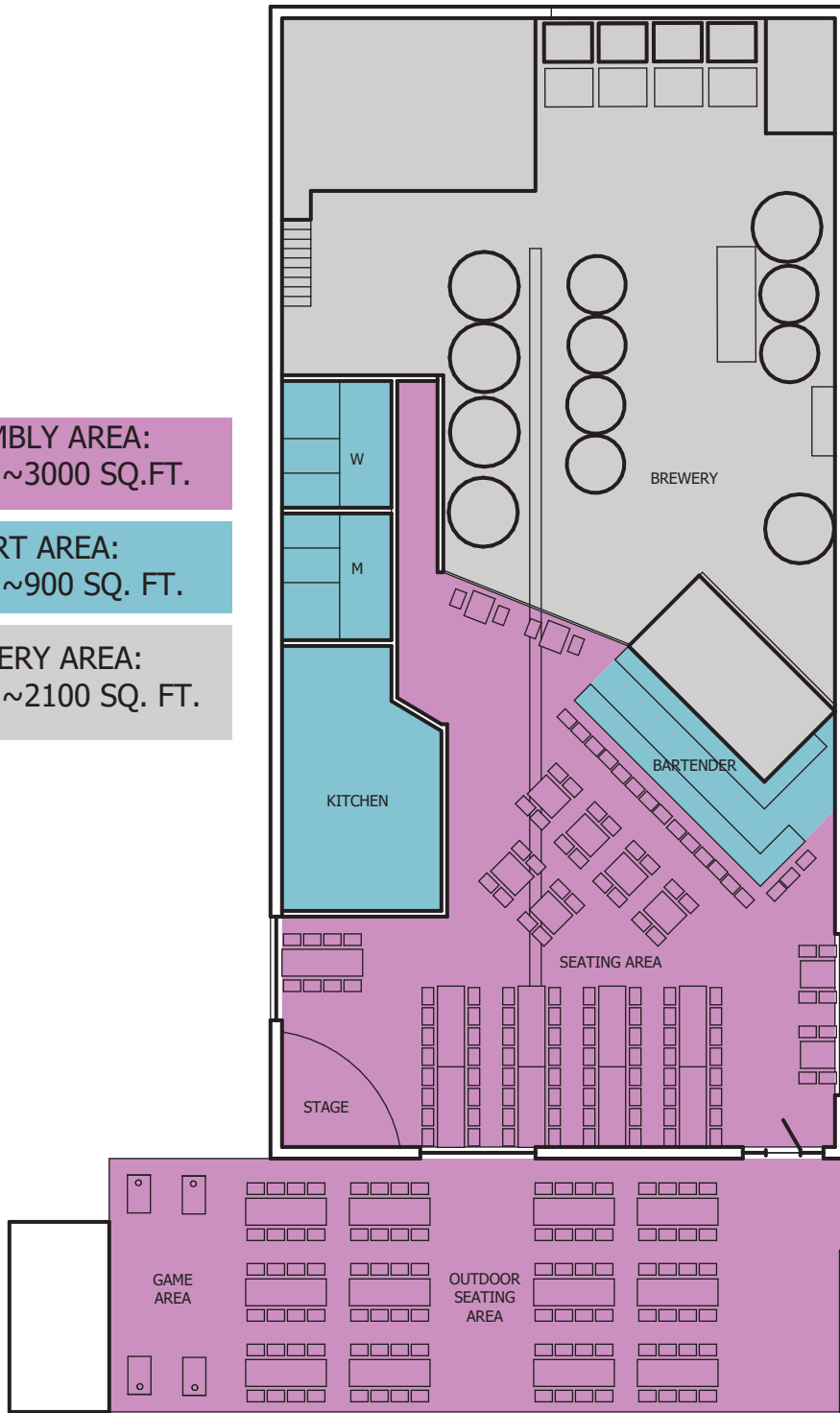
**MEASURES TAKEN TO PROVIDE
ADEQUATE PARKING:**
DEMOLITION OF A STRUCTURE
ADDITIONAL CURB CUT PROVIDED



ASSEMBLY AREA:
~3000 SQ.FT.

SUPPORT AREA:
~900 SQ. FT.

BREWERY AREA:
~2100 SQ. FT.



0 16' 32'

0

LAUGHING SUN OFF-STREET PARKING VARIANCE REQUEST - ATTACHMENT C

Scale: 1" : 16'





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Last Revised: 01/2017

WRITTEN STATEMENT OF HARDSHIP (VARIANCE REQUEST)

RECEIVED
AUG 11 2017

NOTE: WRITTEN STATEMENTS OF HARDSHIP MUST ACCOMPANY EVERY VARIANCE REQUEST APPLICATION

PROPERTY INFORMATION	
Property Address or Legal Description: (Lot, Block, Addition/Subdivision)	1019 Fruit Ave Bismarck ND Lots 1-7 & lots 21-24 & All vnt Alley Block 3 William Survey
Location of Property:	<input checked="" type="checkbox"/> City of Bismarck <input type="checkbox"/> ETA
Type of Variance Requested:	Parking
Applicable Zoning Ordinance: (Chapter/Section)	MA
Describe how the strict application of the requirements of the Zoning Ordinance would limit the use of the property. (Only limitations due to physical or topographic features – such as an irregularly shaped, narrow, shallow or steep lot or other exceptional physical or topographic condition – that are unique characteristics and not applicable to other properties in the neighborhood are eligible for a variance. Variances cannot be granted on the basis of economic hardship or inconvenience.)	
Lot size is too small to accomidate off street parking requirements for proposed building usage and redevelopment. This site was developed in The 1920's and does not meet todays city parking requirements for The usage of Food or beverage. The tenant will occupy 5400sf of The Building with 3000sf public area.	
Describe how these limitations would deprive you of reasonable use of the land or building involved, and result in unnecessary hardship.	
Redevelopment of This property is Limited based on lot size and exsisting building to land ratio to Accomodate for new development and conform to The current city parking. The site is 2 spaces short for food usage OR 22 spaces short for microbrew. at The time of this Application The user is waiting for confirmation on final usage	
Describe how the variance requested is the minimum variance necessary to allow reasonable use of the property.	
All avenues have been considred in maximizing off street parking including tearing down an exsisting structure to accomadate 11 parking spaces of The 38 proposed off street parking per The attached design. This Area has several on street parking space not utilized	

BOARD OF ADJUSTMENT PUBLIC HEARING PROCEDURE AND PROTOCOL

All public hearings before the Board of Adjustment will follow the same basic format. This outline has been prepared to help you understand the procedure and protocol.

1. The Chair of the Board of Adjustment will introduce the item on the agenda and ask staff to present the staff report.
2. The Planner assigned to the file will present the staff report on the item. The presentation will be an overview of the written staff report included in the agenda packet, which is posted on the City's website by the end of the day on the Friday before the meeting.
3. The members of the Board of Adjustment may ask staff questions about the request itself, but they will not discuss the request prior to obtaining input from the public.
4. The Chair of the Board of Adjustment will then open the public hearing on the request and ask if anyone would like to speak to the Board.
5. The applicant or his or her designated agent is usually given the courtesy of speaking first to outline the proposal and/or clarify any information presented by staff. The applicant may speak at this time or wait until others have spoken.
6. The public hearing is then opened to the public to voice their support, opposition or to ask questions about the proposal. Please write your name and address on the sign-in sheet, step up to the podium, speak clearly, state both your first and last names and your address, then your comments. Speaking over the microphone rather than directly into it will provide the best audio quality. Also, please avoid tapping or banging the podium, as the microphone amplifies the sound. Your comments as well as any materials distributed to the Board of Adjustment at this time will be made part of the public record. If you would prefer to provide written materials to staff at the beginning of the meeting, we will distribute the materials to the Commission for you.
7. Please be respectful of the Board of Adjustment, staff and others speaking on the request. Personal attacks against the applicant or others, clapping/cheering or booing speakers is not acceptable. Staff and the applicant will only respond to questions from the Board of Adjustment, not questions directly from those speaking at the public hearing.
8. Everyone who wishes to speak will be given a chance to speak; however, at larger public hearings, the Chair may ask speakers to limit their time at the podium to five minutes, not repeat previous testimony/comments and only speak once. Members of the Board of Adjustment may ask questions of those speaking, but may also listen and deliberate after the public hearing is closed.
9. After everyone in the audience wishing to speak has given his or her comments, the Chair will close the public hearing portion for the agenda item. No additional comments from the public are allowed after the public hearing has been closed. At this point, the Chair will ask staff if they have any additional information or final comments.
10. The Board of Adjustment members will then discuss the proposal. They may ask staff or the applicant additional questions or for clarification of items stated during the public hearing. At the conclusion of the discussion, the Board will make its decision.